

HR 2905 – The Broadcaster Freedom Act of 2007

Congressman Mike Pence (IN-06) and Congressman Greg Walden (OR-02)

H.R.2905 is a bipartisan piece of legislation that prohibits the Federal Communications Commission from prescribing rules, regulations or policies that will reinstate the Fairness Doctrine. The so-called Fairness Doctrine is a regulation from the 1940s that required broadcasters to present contrasting viewpoints on controversial issues to avoid revocation of their broadcasting license.

MYTH: The Fairness Doctrine is needed in order for talk radio listeners to hear both sides of a controversial issue.

FACT: When the Fairness Doctrine was in place, broadcasters actually minimized programming that could be considered controversial to avoid the substantial dangers associated with the Fairness Doctrine such as government sanction and administrative and legal expenses.

MYTH: The Fairness Doctrine is needed due to consolidated ownership of media outlets.

FACT: The Fairness Doctrine is a holdover from the days of scarce media outlets. When the FCC issued the Fairness Doctrine in the 1940s, it justified the regulation on the grounds that there were only a scarce number of broadcast stations across the country. Today there are over 14,000 broadcast radio stations, numerous satellite radio stations and internet radio streams, over 10 million blogs, internet video websites like YouTube, and podcasts. The scarcity justification that once was used to validate the need for the Fairness Doctrine does not hold true in today's 24-hour news environment.

MYTH: The Fairness Doctrine only applies to political talk radio programs hosted by radio personalities, such as Rush Limbaugh and Al Franken.

FACT: The FCC applied the Fairness Doctrine to discussion of "controversial issues of public importance." Since the FCC's guidance on the Fairness Doctrine lacked clarity, the breadth of what could be considered a controversial issue today is significant. Therefore, religious broadcasters could very well be prevented from presenting their views over the airwaves without federal interference. In America's increasingly polarized society, traditional religious and ethical principles are considered as controversial as ever. If the Fairness Doctrine is reinstated, complaints could be filed with the FCC against religious broadcasters that examined conventional Christian and Jewish teachings relating to sexuality, marriage, parental responsibility and the sanctity of human life by those with differing beliefs.

MYTH: The FCC has repealed the Fairness Doctrine, so there is not a need for HR 2905, the Broadcaster Freedom Act.

FACT: The FCC could reinstate the Fairness Doctrine at any time through a rule making. Clearly, there are concerns this could occur because more than 300 Members of the U.S.

House of Representatives voted to prohibit the FCC from using appropriated funds for reinstating the Fairness Doctrine during FY 2008 (Roll Call 599, June 28, 2007).

A future presidential administration could direct the FCC to reinstate the Fairness Doctrine. Only an act of Congress can protect the free speech rights of broadcasters.

MYTH: Only conservative talk radio hosts and broadcasters think the Fairness Doctrine is troublesome.

FACT: In a 2003 interview on PBS's NewsHour with Jim Lehrer, well-known liberal talk show host, Alan Colmes, said:

Modern day talk radio would not thrive if there were a Fairness Doctrine and the bureaucratic nightmare that's involved in the kind of paperwork you need to do that. The free market should be the arbiter of what flies on talk radio. ... That's where I want to make it, and not because I have government help to do so.

In 2007, on his own program, Hannity and Colmes, Mr. Colmes wholeheartedly agreed with a guest's comment that radio hosts simply chose not to talk about controversial issues on the air when the Fairness Doctrine was in place.

As managing editor and anchor of CBS News, Dan Rather said:

"I can recall newsroom conversations about what the FCC implications of broadcasting a particular report would be. Once a newsperson has to stop and consider what a government agency will think of something he or she wants to put on the air, an invaluable element of freedom has been lost."

MYTH: If the Fairness Doctrine is about First Amendment freedom of speech protection, its fate should be decided by our nation's court system.

FACT: In 1974, the United States Supreme Court concluded that the Fairness Doctrine inescapably dampens the vigor and limits the variety of public debate in *Miami Herald Publishing Company v. Torino*. Twenty-three years ago, in *FCC v. League of Women Voters*, the Court went further and concluded the Fairness Doctrine was limiting the breadth of public debate and, as a result, the FCC overturned it.